

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 75, “Conditions of Eligibility,” Iowa Administrative Code.

The purpose of these amendments is to increase the statewide average cost of nursing facility services to a private-pay person. These amendments are not related to rates paid by Medicaid for nursing facility care.

The cost figure is used to determine a period of ineligibility when an applicant or recipient transfers assets for less than fair market value. When assets are transferred to attain or maintain Medicaid eligibility, the individual is ineligible for Medicaid payment of long-term care services. The period of ineligibility is determined by dividing the amount transferred by the statewide average cost of nursing facility services to a private-pay person.

The Department conducted a survey of freestanding nursing facilities, hospital-based skilled facilities, and special populations facilities in Iowa to update the statewide average cost for nursing facilities. The average private-pay cost of nursing facility services per month will be increased from \$5,057.65 to \$5,103.24.

In addition, these amendments update the average charges for nursing facilities, psychiatric medical institutions for children (PMICs) and mental health institutes (MHIs). These average charges are used to determine the disposition of the income of a medical assistance income trust (MAIT).

Nursing facility amounts are not related to the rates paid by Medicaid for nursing facility care. For this purpose, the Department’s survey for statewide average private-pay charges at nursing facility level of care included only the freestanding nursing facilities in Iowa. Hospital-based skilled facilities and special populations units were not included in the survey since recipients are allowed to use the average cost of the specialized care.

The average charge to a private-pay resident of nursing facility care increased from \$4,642 per month to \$4,666.

The average charges for PMICs and MHIs are based on Medicaid rates because Medicaid is the primary payer of these services.

- The average charge for care in a PMIC increased from \$6,111 per month to \$6,297 per month.
- The average charge for care in an MHI increased from \$19,590 per month to \$20,498 per month.

The increases in these amounts will allow a few additional individuals to qualify for medical assistance with MAITs.

The maximum Medicaid rate for ICF/ID is not addressed in this rule making because the maximum rate will be decreased. This change is addressed in a separate rule making (see **ARC 1416C** herein).

Any interested person may make written comments on the proposed amendments on or before April 22, 2014. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by e-mail to policyanalysis@dhs.state.ia.us.

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 249A.4.

The following amendments are proposed.

ITEM 1. Amend subrule 75.23(3) as follows:

75.23(3) *Period of ineligibility.* The number of months of ineligibility shall be equal to the total cumulative uncompensated value of all assets transferred by the individual (or the individual's spouse) on or after the look-back date specified in subrule 75.23(2), divided by the statewide average private-pay rate for nursing facility services at the time of application. The department shall determine the average statewide cost to a private-pay resident for nursing facilities and update the cost annually. For the period from July 1, ~~2013~~ 2014, through June 30, ~~2014~~ 2015, this average statewide cost shall be ~~\$5,057.65~~ \$5,103.24 per month or ~~\$166.37~~ \$167.87 per day.

ITEM 2. Amend paragraph **75.24(3)“b”** as follows:

b. A trust established for the benefit of an individual if the trust is composed only of pension, social security, and other income to the individual (and accumulated income of the trust), and the state will receive all amounts remaining in the trust upon the death of the individual up to the amount equal to the total medical assistance paid on behalf of the individual. For disposition of trust amounts pursuant to Iowa Code sections 633C.1 to 633C.5, the average statewide charges and Medicaid rates for the period from July 1, ~~2013~~ 2014, to June 30, ~~2014~~ 2015, shall be as follows:

- (1) The average statewide charge to a private-pay resident of a nursing facility is ~~\$4,642~~ \$4,666 per month.
- (2) No change.
- (3) The average statewide charge to a resident of a mental health institute is ~~\$19,590~~ \$20,498 per month.
- (4) The average statewide charge to a private-pay resident of a psychiatric medical institution for children is ~~\$6,111~~ \$6,297 per month.
- (5) No change.